

United States District Court
Central District of California

GCIU-EMPLOYER RETIREMENT
FUND AND BOARD OF TRUSTEES OF
THE GCIU-EMPLOYER RETIREMENT
FUND,

Plaintiff,

v.

QUAD/GRAPHICS, INC.,

Defendants.

Case No. 2:16-cv-00100-ODW (AFMx)

**ORDER DENYING PARTIES'
MOTION FOR ATTORNEY FEES
AND NON-TAXABLE COSTS
WITHOUT PREJUDICE [212], [213],
[216], [217]**

Following the Court's entry of judgment (ECF No. 209), Defendant moved to recover their attorneys' fees and non-taxable costs. (*See* Def.'s Mot. for Att'y Fees, ECF No. 212.) Subsequently, Plaintiff moved to recover its entitled costs and attorneys' fees and non-taxable costs. (*See* Pls.' Mot. for Atty's Fees, ECF No. 216.) Thereafter Defendant filed a notice of appeal to the Ninth Circuit (ECF No. 221).¹

When an appeal on the merits is filed, a district court has discretion to rule on a claim for fees, defer its ruling on the motion, or deny the motion without prejudice and direct a new filing period for filing after the claim has been resolved. Fed. R. Civ.

¹ After carefully considering the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

1 P. 54(d)(2), Advisory Committee Notes (1993 Amendment); *Dufour v. Allen*,
2 No. 2:14-cv-5616 CA (SSx), 2015 WL 12819170, at *2 (C.D. Cal. Jan. 26, 2015)
3 (“[A] district court has the discretion to defer consideration of an attorneys’ fee
4 motion until resolution of the underlying case’s appeal.”). “Particularly if the claim
5 for fees involves substantial issues or is likely to be affected by the appellate decision,
6 the district court may prefer to defer consideration of the claim for fees until after the
7 appeal is resolved.” Fed. R. Civ. P. 58, Advisory Committee Notes (1993
8 Amendment). “District courts have exercised their discretion to defer ruling on a
9 motion for attorneys’ fees, or to deny the motion without prejudice to being renewed
10 following disposition of the appeal.” *Pacing Techs., LLC v. Garmin Int’l, Inc.*,
11 No. 12-cv-1067-BEN (JLB), 2014 WL 2872219, at *2 (S.D. Cal. June 24, 2014).

12 Given the nature of Defendant’s appeal, and upon consideration of the Parties’
13 Motions for Attorney Fees and Non-Taxable Costs (ECF Nos. 212, 213, 216, 217), the
14 Court **DENIES WITHOUT PREJUDICE** the Parties’ Motions. If appropriate,
15 Parties may renew their motions within 30 days of the entry of the Ninth Circuit’s
16 Mandate on the pending appeal.

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18 **IT IS SO ORDERED.**

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20 December 20, 2019

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23 **OTIS D. WRIGHT, II**
24 **UNITED STATES DISTRICT JUDGE**
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